

118TH CONGRESS
1ST SESSION

S. _____

To amend the Agricultural Marketing Act of 1946 to exempt industrial hemp from certain requirements under the hemp production program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. TESTER (for himself and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Agricultural Marketing Act of 1946 to exempt industrial hemp from certain requirements under the hemp production program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Industrial Hemp Act
5 of 2023”.

6 **SEC. 2. EXEMPTIONS OF INDUSTRIAL HEMP UNDER HEMP**
7 **PRODUCTION PROGRAM.**

8 (a) DEFINITIONS.—Section 297A of the Agricultural
9 Marketing Act of 1946 (7 U.S.C. 1639o) is amended—

1 (1) in paragraph (1)—

2 (A) by striking the period at the end and
3 inserting “; and”;

4 (B) by striking “means the plant” and in-
5 serting the following: “means—

6 “(A) the plant”; and

7 (C) by adding at the end the following:

8 “(B) industrial hemp.”;

9 (2) by redesignating paragraphs (3) through
10 (6) as paragraphs (4) through (7), respectively; and

11 (3) by inserting after paragraph (2) the fol-
12 lowing:

13 “(3) INDUSTRIAL HEMP.—The term ‘industrial
14 hemp’ means the plant *Cannabis sativa* L. if the
15 harvested material is only—

16 “(A)(i) the stalks of that plant;

17 “(ii) fiber produced from those stalks; or

18 “(iii) any other manufacture, derivative,
19 mixture, or preparation of those stalks (except
20 cannabinoid resin extracted from those stalks);

21 “(B) whole grain, oil, cake, nut, hull, or
22 any other compound, manufacture, derivative,
23 mixture, or preparation of the seeds of that
24 plant (except cannabinoid resin extracted from
25 the seeds of that plant); or

1 “(C) viable seeds of that plant produced
2 solely for production or manufacture of any ma-
3 terial described in subparagraph (A) or (B).”.

4 (b) STATE AND TRIBAL PLANS.—Section 297B of
5 the Agricultural Marketing Act of 1946 (7 U.S.C. 1639p)
6 is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2)(A)—

9 (i) by redesignating clauses (ii)
10 through (vii) as clauses (iii) through (viii),
11 respectively;

12 (ii) by inserting after clause (i) the
13 following:

14 “(ii) a procedure by which a hemp
15 producer shall designate the type of pro-
16 duction of the hemp producer as—

17 “(I) industrial hemp; or

18 “(II) hemp for any purpose;”;

19 (iii) in clause (iii) (as so redesi-
20 gnated), by inserting “, excluding industrial
21 hemp,” after “hemp”; and

22 (iv) in clause (viii) (as so redesi-
23 gnated), by striking “(vi)” and inserting
24 “(vii)”;

25 (B) in paragraph (3)—

1 (i) in subparagraph (A), in the matter
2 preceding clause (i), by striking “Nothing”
3 and inserting “Except as provided in sub-
4 paragraph (C), nothing”; and

5 (ii) by adding at the end the fol-
6 lowing:

7 “(C) PREEMPTION.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), no State or Indian
10 tribe may establish or continue in effect
11 any law that—

12 “(I) regulates the production of
13 industrial hemp in compliance with
14 this subtitle; and

15 “(II) is more stringent than this
16 subtitle.

17 “(ii) VIOLATIONS WITH HIGHER CUL-
18 PABILITY.—Clause (i) shall not apply to
19 any law relating to any violation of or de-
20 scribed in subsection (e)(3).”; and

21 (C) by adding at the end the following:

22 “(4) INSPECTIONS OF INDUSTRIAL HEMP PRO-
23 DUCERS.—With respect to annual inspections of in-
24 dustrial hemp producers under paragraph
25 (2)(A)(vi)—

1 “(A) the inspection shall be a visual in-
2 spection;

3 “(B) if a producer fails a visual inspection
4 under subparagraph (A), the State or Indian
5 tribe may require the producer to provide to the
6 State or Indian tribe documentation that dem-
7 onstrates a clear intent and in-field practices
8 consistent with the designation of the type of
9 production as industrial hemp under paragraph
10 (2)(A)(ii)(I), including seed tags, sales con-
11 tracts, a Farm Service Agency report, harvest
12 techniques, or a harvest inspection; and

13 “(C) if a producer fails to provide docu-
14 mentation demonstrating a clear intent and in-
15 field practices described in subparagraph (B),
16 the State or Indian tribe may require chemical
17 testing on harvested material of the producer
18 that failed the visual inspection under subpara-
19 graph (A).”;

20 (2) in subsection (e)—

21 (A) in paragraph (2)(A)(iii), by striking
22 “basis.” and inserting “basis, unless the hemp
23 producer designated the type of production as
24 industrial hemp under subsection
25 (a)(2)(A)(ii)(I).”; and

1 (B) in paragraph (3)—

2 (i) in subparagraph (A), in the matter
3 preceding clause (i), by striking “neg-
4 ligence—” and inserting “negligence, or
5 knowingly produced a crop that is incon-
6 sistent with the designation of the type of
7 production of the hemp producer as indus-
8 trial hemp under subsection
9 (a)(2)(A)(ii)(I)—”;

10 (ii) in subparagraph (B)(ii)—

11 (I) in the clause heading, by
12 striking “EXCEPTION” and inserting
13 “EXCEPTIONS”;

14 (II) by striking “person growing”
15 and inserting the following: “person—
16 “(I) growing”;

17 (III) in subclause (I) (as so des-
18 ignated), by striking the period at the
19 end and inserting “; or”; and

20 (IV) by adding at the end the fol-
21 lowing:

22 “(II) that designates the type of
23 production of the person as industrial
24 hemp under subsection
25 (a)(2)(A)(ii)(I).”;

1 (iii) by adding at the end the fol-
2 lowing:

3 “(D) PRODUCTION INCONSISTENT WITH
4 INDUSTRIAL HEMP DESIGNATION.—Any person
5 who knowingly produces a crop that is incon-
6 sistent with the designation of the type of pro-
7 duction of the person as industrial hemp under
8 subsection (a)(2)(A)(ii)(I) shall be ineligible to
9 participate in the program established under
10 this section for a period of 5 years beginning on
11 the date of the violation.”; and

12 (3) in subsection (f)(2), by inserting “, exclud-
13 ing industrial hemp,” after “hemp”.

14 (c) DEPARTMENT OF AGRICULTURE.—Section 297C
15 of the Agricultural Marketing Act of 1946 (7 U.S.C.
16 1639q) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (2)—

19 (i) by redesignating subparagraphs
20 (B) through (F) as subparagraphs (C)
21 through (G), respectively;

22 (ii) by inserting after subparagraph
23 (A) the following:

1 “(B) a procedure by which a hemp pro-
2 ducer shall designate the type of production of
3 the hemp producer as—

4 “(i) industrial hemp; or

5 “(ii) hemp for any purpose;” and

6 (iii) in subparagraph (C) (as so redes-
7 ignated), by inserting “, excluding indus-
8 trial hemp,” after “hemp”; and

9 (B) by adding at the end the following:

10 “(3) INSPECTIONS OF INDUSTRIAL HEMP PRO-
11 DUCERS.—With respect to annual inspections of in-
12 dustrial hemp producers under paragraph (2)(F)—

13 “(A) the inspection shall be a visual in-
14 spection;

15 “(B) if a producer fails a visual inspection
16 under subparagraph (A), the Secretary may re-
17 quire the producer to provide to the Secretary
18 documentation that demonstrates a clear intent
19 and in-field practices consistent with the des-
20 ignation of the type of production as industrial
21 hemp under paragraph (2)(B)(i), including seed
22 tags, sales contracts, a Farm Service Agency
23 report, harvest techniques, or a harvest inspec-
24 tion; and

1 “(C) if a producer fails to provide docu-
2 mentation demonstrating a clear intent and in-
3 field practices described in subparagraph (B),
4 the Secretary may require chemical testing on
5 harvested material of the producer that failed
6 the visual inspection under subparagraph (A).”;
7 (2) in subsection (c)(3)—

8 (A) by striking “report the production”
9 and inserting the following: “report to the At-
10 torney General—

11 “(A) the production”; and

12 (B) in subparagraph (A) (as so des-
13 ignated), by striking “subsection (b) to the At-
14 torney General.” and inserting the following:
15 “subsection (b); and

16 “(B) the production of a crop inconsistent
17 with the designation of the type of production
18 of the producer of the crop as industrial hemp
19 under subsection (a)(2)(B)(i).”; and
20 (3) in subsection (d)(2)—

21 (A) by redesignating subparagraphs (B)
22 and (C) as subparagraphs (C) and (D), respec-
23 tively; and

24 (B) by inserting after subparagraph (A)
25 the following:

1 “(B) for each hemp producer described in
2 subparagraph (A), the designation of the type
3 of production of the hemp producer under sub-
4 section (a)(2)(B);”.

5 **SEC. 3. REGULATIONS AND GUIDELINES.**

6 The Secretary of Agriculture shall promulgate regula-
7 tions and guidelines to implement the amendments made
8 by this Act as expeditiously as practicable.